

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
WESTERN DIVISION**

In re

MARCIANO TALULA BOUDREAU

Debtors

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) Chapter 13, No. 16-31054-HJB
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DEBTOR'S MOTION FOR AUTHORITY TO COMPROMISE CONTROVERSIES

To the **HONORABLE MELVIN S. HOFFMAN**, Bankruptcy Judge:

Pursuant to Bankruptcy Rules 9019 and 2002 and Massachusetts Bankruptcy Local Rules 9019-1 and 2002-1, Marciano Talula Boudreau, the debtor in the above captioned Chapter 13 case (the "Chapter 13 Case") (the "Debtor"), requests entry of an order authorizing the settlement of the various controversies with Ross "Sam" August as follows:

1. The Debtor commenced the Chapter 13 Case on December 8, 2016. Previously, the Debtor had filed a Chapter 13 case, Case No. 15-30974-HJB (the "First Case"), on October 30, 2015. The First Case was dismissed on April 14, 2016.

2. On December 21, 2016, the Debtor filed a Motion to Extend the Stay. Ross "Sam" August filed an opposition to the Motion to Extend Stay. Ross "Sam" August also has stated his intent to file an adversary proceeding seeking that the debt owed to him by a judgment issued in the Housing Court in the amount of over \$4,000 be determined as non-dischargeable.

3. The Debtor and Ross "Sam" August seeks to resolve their differences as follows:

- (i) Ross "Sam" August is to be paid \$1000.00, in 4 equal monthly installments, payable to "Peter Irvine, attorney for Sam August", the payments to commence within 15 days of an order approving this compromise; advance payments are acceptable;
- (ii) The Payment to be made by a named relative of Ms. Boudreau, and guaranteed by ApMar USA, Inc.

- (iii) In consideration of the \$1,000.00, once it is paid in full Mr. August will waive his right to file an adversary proceeding seeking that the judgment be determined to be non-dischargeable, and Ross "Sam" August then will withdraw his Opposition to Motion to Extend Stay;
- (iv) Both parties agree to continue the hearing on August's Opposition to Motion to Extend Stay generally, pending payment of the settlement;
- (v) Both parties agree to stay filing of August's contemplated adverse proceeding for 4 months after the date of an order approving this compromise, and the time to file a complaint will be extended until such time (and Boudreau agrees to waive objection to late filing of this adverse proceeding during this time); if all payments are paid, then Ross "Same August will waive the right to file an adversary proceeding;
- (vi) The Debtor's Motion to Vacate the Order will be continued generally; if all payments are made, then the Debtor will withdraw it;
- (vii) Ross "Sam" August retains the right to file a Proof of Claim as a general unsecured creditor, and to receive payments on that claim pursuant to the bankruptcy process; this settlement is expressly not a waiver of the underlying claim.
- (viii) In the event of payor default of the settlement agreement, payor agrees to be liable for liquidated damages equal to the full amount of the Housing Court judgment, plus applicable interest, plus attorney fees at a rate of \$225/hour; and for any collection efforts and/or litigation of the settlement agreement, venue and jurisdiction are agreed to be in Northampton, Mass. and attorney Robin is authorized to accept service of a summons and complaint;

Further litigation of this matter may be time consuming. Trial will require detailed arguments, possibly delaying administration of the Debtor's estate. Accordingly, having considered the issues of fact and law in dispute and the potential risks and costs involved in litigating the issues, the Debtor believes that the proposed compromise is fair and equitable and in the best interest of all parties, particularly since the proposed compromise brings the respective disputes to a

satisfactory resolution without prolonged and costly litigation without a certain result, permitting the Debtor with an opportunity to receive a discharge.

WHEREFORE, for the reasons set forth above, the Debtor requests that the Court authorize the Debtor to compromise the above claim as stated, and that the Court enter such other and further relief as the Court determines appropriate.

MARCIANO TALULA BOUDREAU

Dated: February 21, 2017

/s/ Louis S. Robin
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Certificate of Service

In accordance with the Electronic Case Filing ("ECF") Administrative Procedures of the United States Bankruptcy Court for the District of Massachusetts, I, Louis S. Robin, hereby certify that the foregoing, filed through the ECF System, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and that copies will be sent to those indicated as non-registered participants and all other creditors by first class mail by February 21, 2017.

/s/ Louis S Robin

Service List

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